IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 22ND NOVEMBER 2007 / 1ST AGRAHAYANA 1929

Bail Appl..No. 7178 of 2007()

CRIME NO. NOT KNOWN

PETITIONER

RAJESH KUMAR,S/O MOHANDAS,
PUNJAPPADATH HOUSE,KANALPALAM
ALOOR, THRISSUR DT.

BY ADV. SRI.M.SHAJU PURUSHOTHAMAN
SRI.K.S.RAJESH

RESPONDENTS: RESPONDENT

STATE REPRESENTED BY THE PUBLIC
PROSECUTOR HIGH COURT OF KERALA
REPRESENTING THE S.I. OF POLICE
CHALAKUDY & THE S.I. OF POLICE PALAKKAD.

BY PUBLIC PROSECUTOR SRI. S.U. NAZAR

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 22/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

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B.A.No. 7178 of 2007

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Dated this the 22nd day of November, 2007

O R D E R

Application for anticipatory bail. The petitioner apprehended arrest in crimes that may be registered at the Chalakudy or/and Palghat police stations on the basis of the complaint of the defacto complainant.

2. Notice was given to the learned Prosecutor. The learned Prosecutor now submits that a crime has been registered at the Chalakudy police station on the basis of a private complaint filed before the Magistrate and forwarded to the police by the Magistrate under Section 156(3) Cr.P.C.

3. The crux of the allegations in the complaint is that a motor car belonging to the defacto complainant was entrusted with the petitioner (A1) on a monthly rent for a period of one month. Notwithstanding the elapse of the period of one month, the petitioner has not returned the vehicle to the defacto

complainant. Instead, he had disposed of the vehicle to the second accused.

4. The crime was registered as directed by the learned Magistrate. Search was conducted as directed. The vehicle has been recovered from the possession of the second accused. The same has already been produced before the learned Magistrate. Investigation is in progress. The petitioner apprehends imminent arrest.

5. The learned counsel for the petitioner submits that the petitioner is absolutely innocent. A purely civil dispute is blown out of proportion. It is made to appear now that a criminal offence has been committed. The transaction is a pure and simple civil transaction. For a period of one month the defacto complainant's vehicle was entrusted to the petitioner. An amount of Rs.50,000/-, according to the petitioner, has been advanced to the defacto complainant. After deducting the monthly rent of Rs.25,000/-, the balance of Rs.25,000/- is liable to be returned. But the defacto complainant is not returning the same. In exercise of the right of lien which the petitioner claims in civil law, the petitioner has been retaining the vehicle and it has been

given for safe keeping to the second accused. The defacto complainant has attempted to steal a march over the petitioner by approaching the criminal Court. In any view of the matter, the petitioner does not deserve to suffer the trauma of arrest and detention. He may be granted anticipatory bail, prays the learned counsel.

6. The learned counsel for the petitioner prays, the learned Prosecutor does not oppose the said prayer, and I am satisfied, in the facts and circumstances referred above, that directions under Section 438 Cr.P.C. can be issued in favour of the petitioner, subject to appropriate terms and conditions. In the absence of opposition, it is not necessary for me to advert to facts in any greater detail.

7. In the result:

(1) This application is allowed.

(2) The following directions are issued under Section 438 Cr.P.C.

(a) The petitioner shall surrender before the learned Magistrate on 29.11.2007 at 11 a.m. The learned Magistrate shall release the petitioner on regular bail on condition that he executes a bond for

Rs.25,000/- (Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

(b) The petitioner shall make himself available for interrogation before the Investigating Officer between 10 a.m. and 1 p.m. on 30.11.2007 and thereafter as and when directed by the Investigating Officer in writing to do so.

(c) If the petitioner does not appear before the learned Magistrate as directed in clause (1) above, these directions shall lapse on 29.11.07 and the police shall be at liberty thereafter to arrest the petitioner and deal with him in accordance with law.

(d) If the petitioner were arrested prior to his surrender on 29.11.2007 as directed in clause (1) above, he shall be released on bail on his executing a bond for Rs.25,000/- without any surety undertaking to appear before the learned Magistrate on 29.11.2007.

(R. BASANT)
Judge

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